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RICHARD W. NAGEL
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2016 MAY 26 AM 11:40

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES OF AMERICA FOR AN ORDER AUTHORIZING THE INSTALLATION AND USE OF A PEN REGISTER DEVICE AND/OR TRAP AND TRACE DEVICE AND/OR CALLER IDENTIFICATION OPTION DEVICE ON TELEPHONE NUMBER 1-614-369-5045, SUBSCRIBER UNKNOWN, SERVICE PROVIDED BY WHATSAPP MESSENGER SERVICE (WWW.WHATSAPP.COM)	)	CASE NO: 2:16-mj-254 **PEN REGISTER DEVICE AND/OR TRAP AND TRACE DEVICE** **TO BE FILED UNDER SEAL**

ORDER TO SERVICE PROVIDER

This matter having come before the Court pursuant to an application under Title 18, United States Code, Section 3122, by Michael Hunter, an attorney for the government, which application requests an order to WhatsApp Messenger Service (www.whatsapp.com), and/or any other communication service provider who provides service to this telephone under Title 18, United States Code, Section 3123, authorizing the installation and use of a pen register, and/or trap and trace device (hereinafter, "pen/trap device"), and/or caller identification option or similar feature, as technologically available, which identifies telephone numbers originating calls to and calls from telephone number **1-614-369-5045**, subscriber unknown, service provided by WhatsApp Messenger Service (www.whatsapp.com) (hereinafter, "Target Telephone Number(s)"), as requested by the Drug Enforcement Administration (hereinafter, "Investigative Agency"). The Court finds that the applicant has certified that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

1. IT IS THEREFORE ORDERED, pursuant to Title 18, United States Code, Section 3123, that agents of the Investigative Agency may with the assistance of WhatsApp

Messenger Service and/or any other communication service provider who provides service to the Target Telephone Numbers install and use a pen/trap device and/or caller identification option or similar feature on the Target Telephone Number, to capture the incoming and outgoing number of a wire and/or electronic communication and the date, time and duration of such incoming and outgoing electronic or other impulses on the subject line for a period of 60 days. This includes dialing, routing, addressing, or signaling information transmitted on WhatsApp Messenger Service's packet-switched data network/dispatch service by "direct connect" and/or "push-to-talk" technology and/or whatever name such feature is designated by the provider and/or such other provider who provides digital two-way communications and call details referencing text messaging, also known as Short Message Service (SMS) and/or whatever name such feature is designated by WhatsApp Messenger Service.

2. IT IS FURTHER ORDERED that if said service is not equipped with a caller identification option or similar feature, WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number is to add the caller identification option or similar feature to the Target Telephone Number, and take all necessary steps to see that the addition of the caller identification option or similar feature or any related activity not be reflected on the customer's bill, or in any other way be disclosed to the subscriber of said service.

3. IT IS FURTHER ORDERED that WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number shall forthwith install a pen/trap device and/or caller identification option or similar feature on the Target Telephone Number which shall identify all incoming and outgoing calls that both

originate and terminate within its switching facilities in the local access transport area that have signaling system seven capabilities.

4. IT IS FURTHER ORDERED that WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number shall furnish the results of such pen/trap device and/or caller identification option or similar feature, by sending such information to the Investigative Agency electronically over facilities provided to the Investigative Agency by WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number at reasonable intervals during regular business hours for the duration of the Order.

5. IT IS FURTHER ORDERED that the Court's Order apply not only to the Target Telephone Number with the same subscriber listed herein, but also to: (a) the Target Telephone Number with a different electronic serial number ("ESN") or international mobile equipment identity number ("IMEI"), (b) the Target Telephone Number with a different subscriber but the same ESN or IMEI, and (c) any changed telephone number subsequently assigned to the ESN or IMEI used by any Target Telephone Number for the duration of this Order.

6. IT IS FURTHER ORDERED, pursuant to Title 18, United States Code, Section 3123(b)(2), that WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number shall furnish agents of the Investigative Agency forthwith all information, facilities, and technical assistance necessary to accomplish the installation and use of the pen/trap device and/or caller identification option or similar feature unobtrusively and with minimum interference to the services that WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number accords the subscriber whose telephone is/are to be the subject of the device. Under

Title 18, United States Code, Section 3124(c), WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Number shall be reasonably compensated for reasonable expenses incurred in providing such facilities and assistance.

7. IT IS FURTHER ORDERED, pursuant to the limitations of Title 18, United States Code, Section 3121(c), that the telephone number recorded under this Order, may include "post-cut-through dialed digits," which are numbers dialed from the cellular telephone after the initial call set up is completed.

8. IT IS FURTHER ORDERED that the use of the pen/trap device and/or caller identification option or similar feature not be restricted to capturing the impulses and signaling information used in the call processing based upon the unavailability of necessary technology.

9. IT IS FURTHER ORDERED, pursuant to Title 18, United States Code, Section 3121(c), that technical agents of the Investigative Agency must use technology during the pendency of this Order, if and when such technology becomes reasonably available, that restricts the recording or decoding of electronic or other impulses to the dialing, routing, addressing, and signaling information used in the processing and transmitting of wire and/or electronic communications so as not to include the content of any wire and/or electronic communications. The United States shall make no affirmative investigative use of any information inadvertently collected by the pen/trap device and/or caller identification option or similar feature, as technologically available, if the equipment captures some dialed digits that could be considered call content, such as account numbers or passwords.

10. IT IS FURTHER ORDERED, pursuant to Title 18, United States Code, Section 3123(d), that the case and all accompanying documents including but not limited to this Order

and the application be sealed until otherwise ordered by the Court, and that WhatsApp Messenger Service and/or any other communication service provider who provides service to the Target Telephone Numbers, its agents and employees shall not disclose the existence of this Order, the pen/trap device and/or caller identification option or similar feature, or of this investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the Court.

UNITED STATES ~~DISTRICT JUDGE~~
N. M. King, U.S. M. Judge

5/26/2016
DATE

Columbus, Ohio